MISCELLANY.

Cumulative Sentences.—Though not expressed as clearly as it might be, there is, in our opinion, no criminal enactment in our Code of more importance to the successful suppression of crime than the provision providing for cumulative sentences in the case of successive commissions of crime. It provides: When any person is convicted of an offense, and sentenced to confinement therefor in the penitentiary, and it is alleged in the indictment on which he is convicted, and admitted, or by the jury found, that he had been before sentenced in the United States to a like punishment, he shall be sentenced to be confined five years, in addition to the time to which he is or would be otherwise sentenced. Va. Code, 1904, § 3905.

When any such convict shall have been twice before sentenced in the United States to confinement in the penitentiary, he shall be sentenced to be confined in the penitentiary for life. Va. Code, 1904, § 3906.

In a communication by Mr. Summer Kenner of Huntington, Indiana, to the Central Law Journal, he characterizes a similar act passed recently by the legislature of the state of Indiana as "admirable in many respects," but he suggests the addition of the following provisions as contributing to the strength of such an act, though he might have added with more show of reason that such provisions would accord with the modern tendency towards a more humane treatment of criminals. These provisions are: First. That all criminals sentenced under an act of this character, should be confined in a separate part of the prison, or in a separate prison, and not allowed to commingle with other prisoners serving terms of shorter duration, and especially with those who were serving their first term. This would keep the prison from becoming a school of crime where those serving short terms could be educated by the habitual criminal, and then turned loose to prey upon society.

Second. That it should be made the duty of all wardens and keepers of the state prisons, to fully inform and instruct all prisoners, who are about to be discharged after serving sentences for felonies, as to the effect of a third conviction. If every convict, after having served a term in the states prison for the commission of a felony, knew that a third offense and conviction meant a life sentence, there would be fewer willing to take the chances of violating the laws for a third term.

In conclusion he passes a very just criticism on certain remarks made by a New York lawyer condemning the habitual criminal acts. He says: "But naturally the habitual criminal law has its enemies as well as its friends. I note through the public press, that Mr. Horace B. Hord, a New York lawyer and a native of the Hoosier state, at the annual meeting of the Daughters of Indiana, held in the city of New York a short time ago, said of the act above quoted that

the same was 'an outrage on civilization,' and stated as a reason for his objection thereto that there was no need of such rigid legislation in this country, as 'society is improving, rather than to the contrary.'

"Agreeing with the gentleman that society is improving, as I earnestly hope that it is, yet if society improves to such an extent that there are no further third convictions for felonies, then no one is injured by the existence of such a law, and if, on the contrary, society does not so improve, then we have a law capable of dealing with such criminals in such a way as will put an end to their depredations on society."

Judge Rosalsky, of the court of general sessions, in New York city, in speaking of § 688 of the Penal Code of that state, providing that a criminal who has been convicted four times of felony shall be sent to prison for life, said: "I will not follow any statute which ties the hand of the court. This is the most vicious case of legislation ever enacted. It makes it mandatory upon the court, notwithstanding the situation presented like this case of yours, where you have rendered service to the state, to send a man to prison for his natural life. In this case I will not pass sentence." In the case he referred to, the defendant, who is a mere youth, had previously served three separate terms for burglary, and he had a wife and several children, whose pitiful condition, and nothing else, seems to have so worked on the sympathy of the court, as to have elicited the above remarks. The previous offenses had all been committed between 1896 and 1902, and the accused seems to have been a hardened criminal. We are utterly unable to agree with the court in its criticism of this statute, and are compelled to believe that these remarks came not from the head but from the heart.

A Cheap Va. Code.—Judge Martin Williams, the member of the House from Giles county, is of the opinion that the time has come for the State to have a revised Code—an official publication which can be put on the market at a reasonable figure, say $3 or $4.

His views about the matter should not be construed as being in any way derogatory to the merits of the so-called Pollard Code. Judge Williams regards that work as a fine book, but its price puts it almost beyond the reach of ordinary mortals. Pollard's Code costs $15, and few country folk can put up such a sum for a book. Judge Williams says there are only three copies of the work in his county.

With the view of meeting the needs of the present situation, Judge Williams has offered a bill appropriating $15,000 for the revision of the present laws. His measure provides for three revisers, to be selected by the Legislature, and they are required to report to the next General Assembly two years hence.

The Giles legislator says that the Pollard Code is as hard to find about the Capitol as a four-leaf clover. Last year the State paid

$350 for a limited number of these books, and the money went to Minnesota, as a Minneapolis house has acquired the property from Garland Pollard, the compiler.

Not since the year 1887 have the Virginia laws been codified.
—Richmond Journal.

Unwritten Law.—It is reported that Senator Davis of the new state of Oklahoma is drafting a bill to codify the so-called unwritten law and afford a legal justification for murder in cases in which local sentiment makes conviction impossible. It will be interesting to observe whether such a bill can become law even in a part of our country where sentiment in favor of such justification has been supposed to be most prevalent and persistent. It will be equally interesting to observe the effect upon the development of the community of such an enactment since this is one of the remedies which has been proposed as a cure for lynching. Will the new state be more or less attractive to settlers if they know that private vengeance has been authorized by law in a class of cases where fabrication of testimony is easy by those whose honor is supposed to have been insulted by the deceased and where the means of disproving testimony of revengeful or neurasthenic women may well be impossible?—Green Bag.